

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**-against-**

**ROBERT J. MUELLER, DEEPROOT FUNDS  
LLC (a/k/a dprt Funds, LLC), AND POLICY  
SERVICES INC.,**

**Defendants,**

**-and-**

**DEEPROOT TECH LLC, DEEPROOT  
PINBALL LLC, DEEPROOT STUDIOS LLC,  
DEEPROOT SPORTS & ENTERTAINMENT  
LLC, DEEPROOT RE 12621 SILICON DR LLC,  
AND ROBERT J. MUELLER, JEFFREY L.  
MUELLER, AND BELINDA G. BREEN, AS CO-  
TRUSTEES OF THE MB HALE OHANA  
REVOCABLE TRUST,**

**Relief Defendants.**

**Civil Action No.: 5:21-cv-785-XR**

**DEFENDANT ROBERT J. MUELLER'S OBJECTIONS TO ENTRY OF CONSENT  
JUDGMENT**

TO THE HONORABLE COURT:

Defendant Robert J. Mueller (“Mueller”) hereby files these Objections to the Motion for Approval and Entry of Consent Judgment (the “Motion”) filed by Plaintiff Securities and Exchange Commission (the “SEC”), and hereby states as follows:

The Motion asked the Court to enter a final judgment against the entity Defendants and certain relief Defendants, collectively identified in the Motion as “Debtor Defendants.” The SEC sought Mueller’s position on the Motion prior to filing. Mueller’s counsel informed the SEC that

Mueller objected to the Motion on a number of grounds and intended to file a separate statement regarding those objections. The Motion filed by the SEC did not state that Mueller objected to the Motion. The Court subsequently entered the judgment requested by the Motion without the benefit of Mueller's objections.

The Motion proposed that the Court enter the Final Judgment as to Defendants Deeproot Funds LLC and Policy Services and Relief Defendants Deeproot Tech LLC, Deeproot Pinball LLC, and Deeproot Studios LLC (the "**Consent Judgment**"), which was the product of informal negotiations between the SEC and the Debtor Defendants, through the Chapter 7 Trustee appointed in the bankruptcy cases for the Debtor Defendants. The Debtor Defendants did not file an answer to the SEC's Complaint in this case and there was no formal discovery or other litigation process between the Debtor Defendants and the SEC regarding the merits of the SEC's claims. Mr. Mueller played no part in the discussions regarding the Consent Judgment and is not bound by any of its terms.

The Consent Judgment includes certain assertions of fact that are both unnecessary and disputed. In particular, Mueller disputes that any of the Debtor Defendants engaged in any "unlawful activities" (as stated in the Consent Judgment) and has expressly denied that those entities engaged in the allegedly "unlawful activities" identified in the SEC's Complaint. *See* Defendant Robert J. Mueller's Amended Answer to Securities and Exchange Commission's Complaint [ECF No. 75]. Mueller further denies that any investor was "defrauded," as claimed by the Consent Judgment. *See id.* These factual embellishments were not necessary to resolve claims between the SEC and the Debtor Defendants and should not have been included in the Consent Judgment.

Mueller also disputes there is any basis for a disgorgement remedy against the Debtor Defendants. Mueller further maintains the amounts of disgorgement identified in the Consent Judgment have no basis in fact or law, particularly in light of the Supreme Court's ruling in *Liu v. Securities and Exchange Commission*, 140 S. Ct. 1936 (2020), and its progeny. The disgorgement agreed to by the Debtor Defendants and the SEC thus has no bearing, relation, or relevance to any of the claims pending against Mueller in this case.

Mueller therefore reserves all rights to oppose and/or dispute the use, admission, or introduction of the Consent Judgment, any other document filed in connection with the Motion or the Consent Judgment, or any agreements and/or conclusions included in such documents.

Dated: January 13, 2022

Respectfully submitted,

**DAVIS & SANTOS, PLLC**

By: /s/ H. Jay Hulings

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*Counsel for Defendant Robert Mueller*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 13, 2023, the foregoing document was served on counsel of record via the Court's ECF system.

*/s/ H. Jay Hulings*

H. Jay Hulings